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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,028	07/31/2003	Andrew J. Ries	P9173.00	9663
27581	7590	02/12/2007		
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			EXAMINER ALTER, ALYSSA M	
			ART UNIT 3762	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/12/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/632,028

Applicant(s)

RIES ET AL.

Examiner

Alyssa M. Alter

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3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed September 27, 2006 have been fully considered but they are not persuasive. Therefore the pending claims stand rejected in view of Hawkins (US 5,730,628).

The Applicant maintains that Hawkins "does not teach a first deflection portion insertable between free ends of a first arm and a second arm and deflecting a connector clip from a first position corresponding to a first distance between the first arm and the second arm of the connector clip, to a second position corresponding to a second distance between the first arm and the second arm".

As seen in figures 5 and 6, the annular flange 56 acts as a first deflection portion by engages the arms or spring elements. Therefore, since the annular flange is part of the housing, Hawkins does in fact teach "a first deflection portion insertable between free ends of a first arm and a second arm and deflecting a connector clip from a first position corresponding to a first distance between the first arm and the second arm of the connector clip, to a second position corresponding to a second distance between the first arm and the second arm".

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 10/632058 (US Patent Publication 20050027327 A1) for reasons previously made of record.

2. Claims 1-30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-48 of copending Application No. 10/632026 (US Patent Publication 20050027325 A1) for reasons previously made of record.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hawkins (US 5,730,628) for reasons previously made of record and stated below.

Hawkins discloses a spring within an electrical connector for engaging a lead with an implantable medical device.

As seen in figure 5, "a leaf spring member 60 includes a base element 62 fixed to the first cylindrical passage adjacent the distal end 48 of the barrel 44 and a plurality of integral resilient spring elements 64 extending from the base element at a plurality of circumferentially spaced locations to tip ends 66 freely received in the annular recess 58 for limited transverse movement between the second cylindrical passage 52 and the annular flange 56. The leaf spring elements 64 have contact portions 68 intermediate the base element 62 and the tip ends 66 which project and are biased toward the longitudinal axis of the barrel for mating engagement with a proximal end of the electrical lead 22, specifically with the second contact 32 when inserted into the barrel from the distal end 48 and generally aligned with the longitudinal axis of the barrel. Preferably, the resilient spring elements 64 extend from the base element 62 at a plurality of equally spaced circumferential locations to maximize uniformity of contact force between the spring elements and the second contact 32 of the electrical lead 22"(col. 5, lines 33-52).

As to claims 1 and 16, the examiner considers one of the six arms to be a first and another one of the arms to be the second. The two arms are also connected at the top of the clip. Also, the first position is prior to the insertion of the spring into the housing, the second position is prior to the insertion of the lead and the third position is after the insertion of the lead.

As to claims 6 and 21, the circular plug 54 is the seal member.

Fig. 1 is a cross-sectional view of a multi-layered cylindrical component. The component features several concentric layers. The outermost layer is labeled 46. Inside it is a layer labeled 58, which has a "1st side wall" on the right. A "1st deflection portion" is indicated on the left side of the 58 layer. Below the 58 layer is a layer labeled 54, which has a "1st flange" on the right. Below the 54 layer is a layer labeled 60, which has a "2nd flange" on the right. Below the 60 layer is a layer labeled 62, which has a "2nd deflection portion" on the left. The innermost layer is labeled 64. A "tapered portion with protrusion" is indicated at the bottom center. Other labels include 44, 50, 52, 56, and 66.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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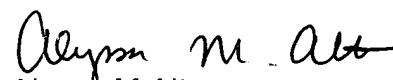
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action..

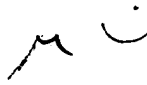
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Alyssa M Alter  
Examiner  
Art Unit 3762

  
George E. Egan  
Primary  
2/3/17